

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-385
HOUSE BILL 1068**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATING TO LONG-TERM CARE; AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A QUALITY IMPROVEMENT CONSULTATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly recognizes that the imposition of penalties for deficiencies in meeting licensure requirements is not the exclusive method for ensuring quality of care in licensed adult care homes. The Department of Health and Human Services shall explore methods to improve and reward quality of care provided by adult care homes. In conducting this undertaking, the Department shall consider and report specifically its findings and recommendations on all of the following:

- (1) Whether or not the licensure period and survey period for adult care homes are factors in providing quality care.
- (2) Whether to cap allowable indirect costs for adult care homes similar to that imposed on nursing homes, but also allowing a higher capped direct rate of reimbursement in order to provide incentives for higher quality direct care to residents.
- (3) Whether a different approach should be adopted for setting reimbursement rates for adult care homes that would replace the current "State average" method. The purpose of the different approach is to provide incentives to facilities to operate more efficiently and reinvest resources saved from efficiency in higher quality care.
- (4) Aspects of the quality assessment/monitoring process that should be changed or modified under State authority.

SECTION 1.(b) The Department shall report the status of its activities under subsection (a) of this section to the North Carolina Study Commission on Aging not later than October 1, 2001. Not later than March 1, 2002, the Department shall submit its final report to the North Carolina Study Commission on Aging and to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Subcommittee on Health and Human Services. The final report shall include recommended legislation for consideration by the 2002 Regular Session of the 2001 General Assembly.

SECTION 1.(c) The Department of Health and Human Services shall offer joint training of Division of Facility Services consultants, county DSS adult home specialists, and adult care home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by DFS consultants and DSS specialists in conducting surveys, and to promote a higher degree of understanding between facility staff and DFS consultants and DSS specialists in what is expected during the survey process.

SECTION 1.(d) The Department of Health and Human Services shall develop an Adult Care Home Quality Improvement Consultation Program. The purpose

of the program is to assist providers in the development of quality improvement plans for each facility. The Adult Care Home Quality Improvement Consultation Program shall be developed in consultation with the Division of Facility Services and representatives of facilities and programs. The Department shall use funds appropriated in its continuation budget for this purpose for the 2001-2002 and 2002-2003 fiscal years. The Department shall report the status of its activities under this section to the North Carolina Study Commission on Aging on October 1, 2001, and March 1, 2002.

SECTION 1.(e) The Department of Health and Human Services shall explore alternatives to existing oversight and survey practices that will ensure quality in adult care homes. The Department shall do the following:

- (1) Define and provide guidance on terms applicable in the survey and oversight process to ensure uniformity. Terms that should be defined and clarified include the following:
 - a. Substantial evidence.
 - b. Imminent danger.
 - c. Condition detrimental to health and safety.
 - d. Hindrance of proper performance of duties.
 - e. Alleged violation.
 - f. Substantial failure to comply.
 - g. Serious physical harm.
 - h. Substantial risk that death or physical harm will occur.
 - i. Present a direct threat to health and safety.
 - j. Deficiency.
 - k. Extent of violation.
 - l. Probability of death or serious harm.
 - m. Reasonable diligence.

The Department shall ensure that the definition and clarification of terms are included in basic and continuing survey training.

- (2) Identify rules that impede the direct care of residents or prohibit resident choice and develop a proposal for repeal of those rules, including any necessary repeal of, or amendment to, current law that is the basis for the rule.

SECTION 1.(f) The Department of Health and Human Services shall study the cost to the State of reducing the county share of State/County Special Assistance from fifty percent (50%) to twenty-five percent (25%), phased in over a five-year period. The Department shall report its findings to the North Carolina Study Commission on Aging, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services not later than October 1, 2001.

SECTION 1.(g) The Department of Health and Human Services shall study alternative ways to reimburse adult care homes for the costs of residents residing in special care units, taking into account the particular needs of those residents. The Department shall report its findings and recommendations not later than March 1, 2002, to the North Carolina Study Commission on Aging, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services.

SECTION 1.(h) The Department of Health and Human Services shall study and make recommendations on statutory changes that would be necessary in order to delineate the various populations in facilities currently regulated as adult care homes according to the particular needs of those populations. The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging not later than March 1, 2002.

SECTION 2.(a) The Department of Health and Human Services shall establish a Skilled Nursing Facility Quality Improvement Consultation Project to assist providers in the development of quality improvement plans for each long-term care

facility and program that offers skilled nursing services to the public. In order to avoid conflict with federal regulations, the Department shall locate the project in a section of the Division of Facility Services other than the Licensure and Certification Section. Project staff shall include nurses who have previous experience in long-term care. Staff shall be available to all licensed nursing facilities and, upon request of the facility, shall provide on-site consultation in at least the following areas:

- (1) Analysis of recent survey results in order to assist the facility with its efforts to correct problems or deficiencies identified by the survey.
- (2) Training for in-house quality improvement programs.
- (3) Specific area or issues of concern raised by the facility.
- (4) Best practices information.

The Department may contract with a private entity to assist in the implementation of the project.

SECTION 2.(b) The Department of Health and Human Services shall offer joint training of survey team members and nursing home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by survey team members in conducting surveys, and to promote a higher degree of understanding between facility staff and survey team members in what is expected during the survey process.

SECTION 2.(c) The Department of Health and Human Services shall require survey team members who have no previous nursing home experience to spend part of their basic training in a nursing home observing operations of the nursing home. On-site training should be designed to provide the survey team member with experience in the actual operation of a nursing facility outside of the survey process and to achieve a general understanding of the following facility functions: administration, nursing, personal care services, and dietary services. On-site training requirement shall be for a minimum of three days and must be completed before the survey team member assumes survey work or oversight responsibilities. In addition to on-site training, at least fifty percent (50%) of the annual continuing education requirement of survey team members shall be in the subject area of geriatric care.

SECTION 2.(d) The Department of Health and Human Services shall convene a Skilled Nursing Facility Quality of Standards Work Group to explore alternatives to existing oversight and survey practices that will ensure quality in skilled nursing facilities. The Work Group shall do the following:

- (1) Clarify and provide guidance on terms applicable in the survey and oversight process to ensure uniformity. Terms that should be clarified include "immediate jeopardy", "harm", "potential harm", "avoidable", and "unavoidable". The Department shall ensure that clarification of terms is included in basic and continuing survey training.
- (2) Identify rules that impede the direct care of patients and develop a proposal for repeal of those rules, including any necessary repeal of, or amendment to, current law that is the basis for the rule.
- (3) Examine possible incentives for providers such as extended survey period, increased reimbursement rates, accreditation, and deemed status. The Work Group shall consider all available quality measurements in developing recommendations for incentives. The Work Group shall also identify changes in current law necessary to implement incentives.
- (4) Explore aspects of quality assessment/monitoring that should be changed to facilitate improvements and determine if a waiver from the Health Care Financing Administration is necessary to implement

innovative approaches to the delivery and monitoring of long-term care in this State.

The Work Group shall consist of representatives of the Division of Facility Services of the Department of Health and Human Services and the North Carolina Health Care Facilities Association.

SECTION 2.(e) The Department of Health and Human Services of the Department of Health and Human Services shall report to the Joint Legislative Health Care Oversight Committee and the North Carolina Study Commission on Aging on the status of implementation of this section. The report shall be submitted on October 1, 2001, and March 1, 2002.

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:36 p.m. this 26th day of August, 2001